

or seal may be removed from an employee by any Customs officer designated by the port director.

§ 122.187 Revocation or suspension of access.

(a) *Grounds for revocation or suspension of access.* The port director may revoke or suspend access to the Customs security area and demand that the identification card, strip, or seal be surrendered in the following instances:

(1) The approved identification card, strip, or seal was obtained through fraud or the misstatement of a material fact;

(2) The employee is convicted of a felony or convicted of a misdemeanor involving theft, smuggling, or any theft connected crime;

(3) The employee permits the approved identification card, strip, or seal to be used by any other person or refuses to openly display or produce it upon the proper demand of a Customs officer;

(4) The continuation of privileges would, in the judgment of the port director, endanger the revenue or security of the area;

(5) The employee refuses or neglects to obey any proper order of a Customs officer, or any Customs order, rule, or regulation;

(6) The bond required by § 122.182(c) of this part is determined to be insufficient in amount or lacking sufficient sureties, and a satisfactory new bond with good and sufficient sureties is not furnished within a reasonable time.

(7) The employee no longer requires access to the Customs security area for an extended period of time at the airport of issuance because of a change in duties, termination of employment, or other reason.

(b) *Notice.* The port director shall suspend or revoke access to the Customs security area by giving notice of the proposed action in writing to the employee, with a copy of the notice to the employer. The notice shall be in the form of a statement specifically setting forth the grounds for revocation or suspension of the privilege and shall be final and conclusive upon the employee, unless a written notice of appeal as provided in paragraph (c) of this section is filed with the port director.

(c) *Appeal.* The employee may file a written notice of appeal of the revocation or suspension within 10 days following receipt of the notice of revocation or suspension. The notice of appeal shall be filed in duplicate and shall set forth the response of the employee to the statement of the port director. A hearing may be requested in the notice of appeal.

(d) *Hearing.* If a hearing is requested, it shall be held before a hearing officer designated by the Commissioner, or his designee, within 30 days following the request. The employee shall be notified of the time and place of the hearing at least 5 days before the hearing. The employee may be represented by counsel at the revocation or suspension hearing. All evidence and testimony of witnesses in such proceeding, including substantiation of charges and the answer thereto, shall be presented. Both parties shall have the right of cross-examination. A stenographic record of the proceedings shall be made upon request and a copy furnished to the employee. At the conclusion of the proceedings or review of a written appeal, the hearing officer or the port director shall promptly transmit all papers and the stenographic record to the Commissioner or his designee, together with the recommendation for final action. If neither the employee nor his attorney appear for a scheduled hearing, the hearing officer shall record that fact, accept any appropriate testimony, and conclude the hearing. The hearing officer shall promptly transmit all papers, together with his recommendations, to the Commissioner or his designee.

(e) *Additional written views.* Within 10 days after delivery of a copy of the stenographic record of the hearing to the Commissioner, or his designee, the employee may submit to the Commissioner, or his designee, additional written views and arguments on matters in the record.

(f) *Decision.* After consideration of the recommendation of the hearing officer or the port director, the Commissioner, or his designee, shall render a written decision. The decision shall be transmitted to the port director and served by the port director on the employee.